



Notice of a decision to Vary

A Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re 5 Auchans Drive, Dundonald, KA2 9EF being the subjects registered in the Land Register of Scotland under Title Number AYR66646 ("the Property")

The Parties:-

Ian Russell residing at 5 Auchans Drive, Dundonald, KA2 9EF ('The Tenant')

Ivan Russell residing at 165 Palmerston Road, Grays, Essex, RM20 4YL ('The Landlord')

NOTICE to the said IVAN RUSSELL ("the Landlord")

The Private Rented Housing Committee having determined that The **Repairing Standard Enforcement Order** should be varied HEREBY vary the outstanding Repairing Standard Enforcement Order to the effect that the following requirements (being the whole requirements contained within the Repairing Standard Enforcement Order) are revoked:

- (1) To Eradicate the dampness in the wall below the window of the front porch and carry out the necessary re-decoration;
- (2) To exhibit an Electrical PIR certificate in respect of the wiring of the cooker switch and in the event of the PIR certificate stating that the wiring and/or the cooker switch is defective carry out the necessary repairs to render them safe and in proper working order;
- (3) To repair and make good the loose door of the kitchen unit below the cooker and reinstate the false drawer front of the sink unit;
- (4) To make secure the wash hand basin in the bathroom;
- (5) To repair or replace the cracked double glazed window unit in Bedroom 1;
- (6) To install an inter-linked hard wired smoke alarm in the lower hall;
- (7) To exhibit a current valid Gas Safety Certificate and evidence from a certified contractor that the boiler and central heating system are in proper working order;
- (8) To repair or replace the weather seals and rain water deflectors at the front and back doors to render them wind and water tight;
- (9) To make secure the wooden boundary fences;
- (10) To clean and clear the gutters to ensure that they are in proper working order;
- (11) To re-bed or otherwise make secure and level the external back door steps.

A landlord or a tenant aggrieved by this decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Where such an appeal is made, the effect of the variation is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the variation will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed..... **J Taylor** Date 23rd April 2013
Chairperson

..... *Elizabeth G. Shedden* witness: ELIZABETH GIFFEN SHEDDEN, 65, High Street, Irvine



Determination by Private Rented Housing Committee

Statement of decision of the Private Rented Housing Committee under Section 25 of the Housing (Scotland) Act 2006

Re 5 Auchans Drive, Dundonald, KA2 9EF being the subjects registered in the Land Register of Scotland under Title Number AYR66646 ('the Property')

The Parties:-

Ian Russell residing at 5 Auchans Drive, Dundonald, KA2 9EF ('The Tenant')

Ivan Russell residing at 165 Palmerston Road, Grays, Essex, RM20 4YL ('The Landlord')

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Repairing Standard Enforcement Order relative to the Property should be varied in terms of Section 25 of the Housing (Scotland) Act 2006 agreed that the RSEO should be varied.

1. The RSEO (as previously varied on 18th January 2013) relative to the Property required the Landlord to exhibit a current valid Gas Safety Certificate and evidence from a certified contractor that the boiler and central heating system are in proper working order by 31st March 2013.
2. The Committee proceeded to vary the Repairing Standard Enforcement Order in terms of section 25 by revoking the said requirements to exhibit a current valid Gas Safety Certificate and evidence from a certified contractor that the boiler and central heating system are in proper working order.

Background

3. On 23rd January 2013 the Private Rented Housing Committee ('the Committee') issued a Determination that part of the works required by the Repairing Standard Enforcement Order ('RSEO') in respect of the Property had been completed and part of the works were outstanding. The outstanding works were 'To exhibit a current valid Gas Safety Certificate and evidence from a certified contractor that the boiler and central heating system are in proper working order.'

The Landlord had originally instructed O'Neil Gas Services to inspect the boiler in November 2012. They advised by email that they had been refused access by the Tenant and were consequently unable to carry out their inspection. Also they were not prepared to fully inspect the central heating system until the five adult dogs that reside in the Property were removed.

On 6th March 2013 the Landlord advised the PRHP Offices that he had arranged for AL Plumbing to inspect the boiler the following week. The Tenant sent an email to the PRHP offices on 8th March 2013 explaining that he had been advised of this arrangement and clarifying that access would only be available between 9am and 5pm Monday to Friday. The engineer from A L Plumbing called at the Property and inspected the boiler. They advised that the Tenant was not prepared to sign the Gas Safety Certificate and therefore they were unable to issue the principal Gas Safety Certificate. Thereafter Heather Wilson of A L Plumbing advised by email dated 4th April 2013 that 'the Gas Safety Certificate would have been passed as the gas boiler was in working order'.

4. The Committee accepted the said email from Heather Wilson as sufficient evidence that the boiler was in a safe condition, albeit that the Gas Safety Certificate had not been issued for the reasons explained. They also acknowledged that the Landlord had been unable to have the central heating system properly inspected and a Gas Safety Certificate issued due to the stained

relationship between the Landlord and the Tenant. After careful consideration and reflecting that the Tenant was partly responsible for the fact that the Gas Safety Certificate had not been issued and the central heating system had not been fully inspected the Committee considered that the RSEO should be varied such that the requirement to 'exhibit a current valid Gas Safety Certificate and evidence from a certified contractor that the boiler and central heating system are in proper working order' should be discharged.

5. The decision of the Committee was unanimous.

Right of Appeal

6. A landlord or tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of section 63

7. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed **J Taylor** Date 11th April 2013
Chairperson